

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

KERMIT J. ERICKSON,

Plaintiff,

v.

ORDER

Civil File No. 05-427 (MJD/SRN)

MICHAEL D. JOHNSON and
BALOGH, BECKER, LTD.,

Defendants.

Allen H. Gibas, Gibas Law Office, Counsel for Plaintiff.

Kelly Ann Putney and Michael A. Klutho, Bassford Remele, Counsel for
Defendants.

This matter is before the Court regarding letter requests by both Plaintiff and Defendants to file motions for reconsideration of portions of the Court's February 22, 2006, Order granting in part and denying in part Defendants' Motion for Summary Judgment and granting in part and denying in part Plaintiff's Motion for Summary Judgment and for Denial of Defendants' Motion for Summary Judgment.

The Local Rules provide that a motion to reconsider can only be filed with the Court's express permission, and then, only "upon a showing of compelling

circumstances.” L.R. 7.1(g). The district court’s decision on a motion for reconsideration rests within its discretion. Hagerman v. Yukon Energy Corp., 839 F.2d 407, 413 (8th Cir. 1988).

Motions for reconsideration serve a limited function: to correct manifest errors of law or fact or to present newly discovered evidence. Such motions cannot in any case be employed as a vehicle to introduce new evidence that could have been adduced during pendency of the summary judgment motion. The nonmovant has an affirmative duty to come forward to meet a properly supported motion for summary judgment. . . . Nor should a motion for reconsideration serve as the occasion to tender new legal theories for the first time.

Id. at 414 (citation omitted). The Court has reviewed its February 22, 2006, Order and concludes that it contains no manifest errors of law or fact.

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendants’ March 14, 2006, letter request to file a motion for reconsideration [Docket No. 44] is **DENIED**.
2. Plaintiff’s March 1, 2006, letter request to file a motion for reconsideration [Docket No. 45] is **DENIED**.

Dated: May 12, 2006

s / Michael J. Davis
Judge Michael J. Davis
United States District Court